

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SARA J. TRAFALS Ph: (630) 262-0270
379 Ashby Court

Geneva, IL 60134

(b) County of Residence of First Listed Plaintiff KANE

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) 435-628-1682
Gallian, Wilcox, Welker & Olson
59 South 100 East; St. George, UT 84770

DEFENDANTS Nicholas J. Hasenwinkel and
Larry Dean Hasenwinkel

346 N. 3460 West; Hurricane, UT 84737

County of Residence of First Listed Defendant Washington

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known) UNKNOWN

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | |
|---|--|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1332

Brief description of cause:

Injuries from auto accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/5/07

(Michael I. Welker)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

GALLIAN, WILCOX, WELKER & OLSON, L.C.

Michael I. Welker #7447

Brian L. Olson #8070

59 South 100 East

St. George, Utah 84770

Telephone: (435) 628-1682

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

SARA J. TRAFALS,

Plaintiff,

vs.

NICHOLAS JON HASENWINKEL and
LARRY DEAN HASENWINKEL

Defendants.

COMPLAINT

Civil No. _____

Judge: _____

Plaintiff SARA J. TRAFALS, by and through Michael I. Welker of the law firm of GALLIAN, WILCOX, WELKER & OLSON, L.C., for her Complaint against Defendants avers as follows:

JURISDICTION AND VENUE

1. Plaintiff Sara J. Trafals (hereinafter, "Sara") is a resident of the State of Illinois.
2. At all times relevant herein, Defendant Nicholas Jon Hasenwinkel (hereinafter, "Nicholas") was a resident of Washington County, State of Utah.

3. At all times relevant herein, Larry Dean Hasenwinkel (hereinafter, "Larry"), a resident of Washington County, was Nicholas' natural father and guardian, and was the owner of the 1996 Oldsmobile Ciera (the "Oldsmobile") at issue in this case.

4. The events and circumstances giving rise to this lawsuit occurred in Washington County, State of Utah.

5. Jurisdiction over the Plaintiff's claims in this court is proper and is predicated upon 28 U.S.C. § 1332.

6. Venue over Plaintiff's claims in this court is proper.

CAUSE OF ACTION
Negligence

7. Plaintiff reasserts all other allegations of this Complaint and incorporates them herein as though set forth in full.

8. On September 19, 2003, Sara was the driver of a 2003 Pontiac (the "Pontiac").

9. On September 19, 2003, Nicholas, a minor at the time, was the driver of the Oldsmobile.

10. On September 19, 2003 at approximately 7:30 a.m., Sara was traveling eastbound in the Pontiac on State Road 9 at or near 2700 West Street in Hurricane, Utah.

11. At the above-mentioned time, Nicholas was driving eastbound in the Oldsmobile on State Road 9 at or near 2700 West Street in Hurricane, Utah.

12. At the above-mentioned time and location, Nicholas negligently rear-ended Sara's vehicle, pushing Sara's vehicle off of the road and into a ditch.

13. At the above-mentioned time and location, Nicholas negligently and recklessly operated his vehicle by causing it to collide into the Pontiac.

14. Defendants knew, or reasonably should have known, that such an accident was a foreseeable consequence, and in fact a likely consequence, of Nicholas' carelessness and negligence.

15. In causing the aforementioned collision, Nicholas generally breached his duty to act with reasonable care and caution to prevent injury to drivers on public roads; more specifically, Nicholas breached his duties to maintain a proper lookout and to keep a safe distance behind vehicles ahead of him, in violation of Utah Code Ann. § 41-6a-711.

16. As a direct and proximate result of Nicholas' negligence and recklessness, Sara has sustained bodily injury, shock, and emotional harm, and has suffered great physical, mental, and emotional pain and suffering.

17. Moreover, Sara's injuries have resulted in a degree of permanent impairment and disfigurement to Sara.

18. Nicholas' negligence was the actual and proximate cause of Sara's injuries identified herein.

19. As a direct and proximate result of Nicholas' negligence and recklessness, Sara suffered injuries requiring her to employ physicians, physical therapists, and other medical personnel for examination, treatment, and care of her respective injuries; and Sara also incurred incidental out-of-pocket travel related expenses.

20. As a direct and proximate result of Nicholas' negligence and recklessness, Sara will incur further medical and incidental expenses for the care and treatment of her respective injuries.

21. Nicholas is liable for all general, consequential, and incidental damages as alleged above.

22. Under Utah Code Ann. § 53-3-212, as the owner of the Oldsmobile, Larry is jointly and severally liable for all general, consequential, and incidental damages caused by or assessed to Nicholas as alleged above.

PRAYER FOR RELIEF

WHEREFORE, Sara respectfully prays for judgment against Defendants as follows:

1. For general damages that Sara has suffered, including but not limited to pain, suffering, impairment, emotional distress, disfigurement, and lost quality of life, in amounts to be proved at trial;
2. For all consequential, incidental, and special damages that Sara has suffered, including but not limited to past and future medical expenses, in amounts to be proved at trial;
3. Pursuant to Utah Code Annotated Section 78-27-44, for prejudgment interest at the legal rate from the date of Sara's injuries until paid;
4. For costs incurred and accruing;
5. For post-judgment interest at the legal rate; and,
6. For such other and further relief as the court deems just under the circumstances.

DATED this 5 day of September, 2007.

GALLIAN, WILCOX, WELKER & OLSON, L.C.



Michael I. Welker

Attorney for Plaintiffs